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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,344	03/26/2004	Jasna Roeth	LEAP:132US	1555
24041	7590	01/03/2006	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,344

Applicant(s)

ROETH ET AL.

Examiner

Joshua L. Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1, 16 and 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 9, 10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to Election filed October 28, 2005. Claims 2-15 and 17 were elected without traverse.

Election/Restrictions

Claims 1, 16 and 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 28, 2005.

Claim Objections

Claims 9, 10 and 12-15 are objected to because of the following informalities:

Regarding claims 9 and 12, claims 9 and 12 depend from claim 2 and state that the means for moving the object holder include a loop and pulley system, but claim 2 requires the means for moving the object holder comprise a rack and pinion type moving system.

The remaining claims depend from claims 9 and 12 and inherit the deficiencies thereof.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-7 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodgson (US 4,911,543).

Regarding claim 2, Hodgson discloses a microscope with at least one ocular and at least one objective and a microscope stage (abstract) the microscope stage having a planar surface (Fig. 2) comprising means for attachment to a frame (124) of the microscope so that the planar surface (30) is essentially perpendicular to an optical path (40) through a center of the objective lens (Fig. 2) and an object holder (32) for holding an object for examination by the microscope (Fig. 2) means for moving the object holder relative to the optical path so that a held specimen moves in a direction parallel or coincident with the optical path the means comprising at least one rotatable focusing knob (171) attached to a pinion to move a rack that moves the stage in the z-direction (col. 29 lines 13-17) and means for moving the object holder in the x or y-direction perpendicular to the z-direction so that a held specimen moves through the optical path parallel to the planar surface (col. 25 lines 45-52) the means for moving the holder comprising a first control knob (200) mounted so as to intersect a rotational axis of the rotatable focusing knob of the microscope (Fig. 2), when the optical path passes through a center of a specimen holding area of the object holder (Fig. 2).

Regarding claim 3, Hodgson discloses means for attachment comprising a mounting bracket between the frame and the stage with attachment screws (126; Fig. 2; col. 20 lines 1-4).

Regarding claim 4, Hodgson discloses means for moving the object holder comprises a means for moving the entire stage (Fig. 2).

Regarding claim 5, Hodgson discloses the means for moving the object holder comprises a pinion rotatably attached to the stage that engages with a rack rigidly attached to the frame so that rotation of the pinion moves the stage relative to the frame (col. 29 lines 13-17).

Regarding claim 6, Hodgson discloses the rack is rigidly attached to the frame by means of the mounting bracket (Fig. 2; col. 29 lines 13-17).

Regarding claim 7, Hodgson discloses the control knob is attached to the pinion so that rotation of the control knob rotates the pinion to move the stage (col. 29 lines 13-17).

Regarding claim 17, Hodgson discloses stereo oculars and the rotational axis of the focusing knob is parallel to a line through the center of the oculars (col. 19 lines 10-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodgson (US 4,911,543) in view of Aihara (US 5,906,148).

Regarding claims 8-13 and 15, Hodgson teaches the invention as claimed but lacks reference to pulleys and moving the object holder relative to the stage. Aihara teaches moving the object holder relative to the stage (col. 3 lines 23-30). Aihara further teaches means for moving the object holder comprise a belt loop (43I) attached to the object holder that passes around pulleys rotatably mounted to the stage wherein the cable attachment to the object holder is located between the pulleys (Fig. 3). Aihara further teaches the control knob is attached to one of the pulleys so that rotation of the control knob (43E) rotates the pulley to move the belt attached object holder relative to the planar surface (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have Hodgson use the pulleys and move the object holder relative to the microscope stage as taught by Aihara for the purpose of minimizing movement along other axes (Aihara col. 4 lines 41-43) for more precise placement of the specimen.

Regarding claim 14, Hodgson teaches the first control knob rotates the pinion so as to move the stage in a direction perpendicular to the rotation axis of the focusing knob (col. 29 lines 13-17; Fig. 2).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP



DREW A. DUNN
SUPERVISORY PATENT EXAMINER